

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of:	)	
	)	
Notice Of Proposed Rulemaking	)	MB Docket No. 05-181
Implementation of Section 210 of the	)	
Satellite Home Viewer Extension and	)	
Reauthorization Act of 2004 to Amend	)	
Section 338 of the Communications Act	)	

**REPLY COMMENTS OF MICROCOM**

We do not agree with DIRECTV's comments that serving Alaska and Hawaii rests on untested constitutional ground in that the technical limitations DIRECTV asserts are not documented, the burden of geographic service would seem to be much greater and yet has not been challenged, and it is not consistent with News Corp's and General Motors public statements about serving all US DMA's during the public review of News Corp's acquisition of DIRECTV from General Motors.<sup>1</sup> In addition, the fundamental reason for Bangor, Maine, having 10 times as many subscribers as Alaska is the direct result of DIRECTV's failure to comply with geographic service provisions of existing Federal law. It is disingenuous to use the small market size of Alaska as a reason to not provide local channel services when the reason for the small market size was a corporate policy to not actively market or provide comparable DIRECTV service in the state as is done in the other states.<sup>2</sup>

Moreover, the DIRECTV allegation of trading off other markets or in other words "robbing Peter to pay Paul" is not explained. DirecTV has been trumpeting the spot beam architecture of Spaceway and yet capacity to be used in Alaska also serves Bangor, Maine? This requires a little more explanation before it will make sense. Throughout the DIRECTV comments this technical tradeoff is mentioned but not explained.

DIRECTV has alleged in its comments that the Commission has long understood providing DBS service to Alaska and Hawaii is extremely difficult. The record does not support this allegation. The Commission in its official record stated in the Final Rule on Policy and Rules for the Direct Broadcast Satellite Service published August 2, 2002:

In this Report and Order, the Commission recognizes that it is possible to provide service to Hawaii and also to significant portions of Alaska from the 101 deg. W.L orbit location in addition to the 110 deg. W.L. and 119 deg. W.L. orbit locations.

In the same order, the Commission gave DBS operators an "out" by publishing the following rule in Sec 25.148:

DBS applicants seeking to operate from locations other than 61.5 deg. W.L. who do not provide service to Alaska and Hawaii, must provide technical analyses to the Commission demonstrating that such service is not feasible as a technical matter, or that while technically feasible such services would require so many compromises

in satellite design and operation as to make it economically unreasonable.

To date not one DBS provider has invoked this provision. In the past both providers have had in service satellites that have provided higher signal levels to the state than the current generation.<sup>3</sup> From that we can only conclude, the only thing technically difficult about providing service to Alaska and Hawaii seems to be reminding the engineering staff about it when they are buying satellites.

Finally DIRECTV pleads “bandwidth poverty” about providing high definition or multicast services on digital channels. The “bandwidth poverty” argument lacks technical documentation. In addition, it implicitly asks the Commission to approve downgrading a high definition signal to standard definition. To the consumer, there isn’t any difference between an analog standard definition signal and digital standard definition signal. It’s all about resolution and they are getting a standard definition digital signal today. The digital transition will mean nothing to these consumers if DIRECTV is allowed to take this approach.

Respectfully Submitted:

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<sup>1</sup>In comments filed by General Motors 9/22/03 in FCC Proceeding 03-124: “Accordingly, as early as 2006 and no later than 2008, (1) DIRECTV will offer a seamless, integrated local channel package in all 210 DMA’s and (2) DIRECTV will offer at least 200 to 300 channels of local and national HDTV programming.”

<sup>2</sup>The estimated population of Bangor Maine in 2004 was 41,000 people. If Penobscot County is included the population is 148,000. The population of Anchorage is 270,000 and the population of the Fairbanks North Star Borough is estimated at 85,000. With the number of DBS subscribers in Alaska estimated at over 40,000 the proximate reason for DIRECTV’s low numbers is most likely failure to serve the market.

<sup>3</sup>Both Echostar 4 and TEMPO 1 provided service to Alaska on dishes smaller than the current generation of satellites used in primary service.